

Hearing Aid Dispensers Advisory Committee Meeting
Department of Consumer Affairs
1625 North Market Blvd., 2nd Floor
El Dorado Conference Room, Suite N-220
Sacramento, CA 95834
April 24, 2008

Meeting Minutes

Agenda Item I-Roll Call

Mr. Sager called the meeting to order at 11:10 a.m.
Ms. Crawford took roll call & a quorum was established.
Mr. Robert Puleo was present in Ms. Yang's absence.

Advisory Committee Members:

Randall Sager
Deane Manning
Judith Horning
Marta Carrera
Juanita Sendejas-Lopez
Deobrah Martin

HADB Staff Present:

Linda Shaw
Yvonne Crawford
Debbie Newcomer
Angie Bigelow

Agenda Item II- Approval of the December 13,
2007 Meeting Minutes

Mr. Sager asked for any changes to the December 13 minutes.

1 Mr. Manning stated that on page three, second paragraph, he didn't
2 think the "Therefore, applicants" sentence was clear, & should be
3 removed. Also on page four, first paragraph, also should be
4 removed.

5
6 Mr. Manning also indicated that Agenda Item VII, Consumer
7 Outreach, second to the last page, information about rebate coupons
8 should be removed from minutes as well.

9
10 Discussion pursued & all agreed that all questioned items should be
11 removed from minutes.

12
13 Ms. Horning asked, if on page three if a trainee left the profession for
14 a significant amount of time does the law allow for a hold or suspend
15 to be placed on the license, and can they notify the bureau?

16
17 Mr. Sager stated that the law said allows for inactive status.

18
19 Ms. Crawford said inactive status only applies to permanent
20 licensees, that it was not an option for a trainee. If a trainee stops
21 working with a supervisor, the trainee or supervisor must notify the
22 Bureau in writing, & we will suspend their license. If the trainee
23 obtains a new supervisor & proper documents & fees are received
24 their license will be reactivated for the remaining time. We have
25 found that when a trainee leaves & comes back to the profession,
26 there is a need for additional training.

27
28 Ms. Dobbs stated on page six, 11th line change "there" to "their".
29 Also, on page seven, 2nd paragraph, "Complaint Medication" should
30 be "Complaint Resolution", & should be "handles" not "mediates".

31
32 Ms. Martin indicated on page eight, that the guidelines she was
33 speaking of was a service that could let people know about updates
34 on the web.

35
36 Ms. Hunter stated that on page four, what she was saying was:
37 many other licensing groups or programs, accredit schools so it is a
38 school accreditation process, allowing an individual to get training

1 under the creditation process of the school, not the individual to get a
2 temporary license such as hearing aid dispensers.

3 A motion to accept minutes as revised was made by Ms. Sendejas-
4 Lopez. A second by Ms. Carrera. Minutes passed as revised.

5
6 It was suggested that page & perhaps line numbers be added to
7 future minutes.

8 9 Agenda Item III-Bureau Update

10 11 A. Board/Bureau Annual Conference

12
13 Mr. Puleo told briefly about an event planned by the Department of
14 Consumer Affairs. He introduced Sara Boire, Special Assistant to the
15 Director, & she explained in more detail about the upcoming
16 conference, to be held November 17-21, 2008 in Los Angeles. The
17 conference is a Department of Consumer Affairs event for all Boards
18 & Bureaus to meet in one location & get to know each other, & attend
19 other Board or Committee meetings within DCA. The conference
20 was scheduled around Legal Counsel's scheduling.

21
22 There will be three different sessions to attend (workshops) & two
23 panel discussions, in addition to Board/Bureau Advisory meetings.
24 Panel discussion will be on Wednesday. 1) Board Development
25 workshop is designed to help board members to be better members,
26 tools that are needed to conduct business. 2) Professional Licensing
27 and Enforcement will look at enforcement needs, licensing
28 requirements, education. 3) Consumer trends & issues will address
29 what trends & issues are facing consumers; such as identity theft,
30 unlicensed activity. How can we empower consumers to make better
31 choices? It will be attended by the Better Business Bureau, &
32 Attorney General, & is open to the public & consumer advocates as
33 well. All Board & Committee meetings will be scheduled for Tuesday
34 or Thursday enabling all to stay for Wednesday activities. Free shuttle
35 from LAX, Westin LAX is hotel. They will arrange all accommodations
36 (hotel and conference rooms); we will need to let them know what we
37 need. There will be a reception Wednesday evening, to network.
38 Information will be sent out to keep us informed. All information

1 should be finalized by early June. There are no fees for the
2 conference.

3 Ms. Crawford said that she had polled the Committee for the
4 November 18 & 19, and that all except Mr. Manning could attend.

5
6 B. Budget

7
8 Mr. Puleo reported a reserve of 16.2 months & said he thinks
9 reserves will go down over the next two years, but reported that
10 spending is down this year. Possibility of a fee increase in the future,
11 but for now everything is okay.

12
13 Ms. Horning read that fines were not counted as revenue & wondered
14 why?

15
16 Mr. Puleo explained that fines are considered restitution &
17 enforcement is very expensive. We don't want boards & bureaus
18 trying to supplement their budgets with fines.

19
20 C. Introduction of New Manager

21
22 Mr. Puleo introduced Linda Shaw as the new manager for the
23 Bureau.

24
25 Agenda Item IV-Proposed Statue & Regulation
26 Changes

27
28 Ms. Crawford explained that the proposed statute & regulation
29 changes came about as a result of issues that have come up during
30 the Complaint Resolution process.

31
32 A. Responsibility of Owner or Manger for Aid Fitted & Sold on
33 Premises (B & PC Section 3367)

34
35 Current law provides that a hearing aid dispenser who is the owner,
36 manager, or franchisee is responsible for the adequacy of the fitting
37 or selling of any hearing aid fit or sold by any licensee at that location
38 but does not address the adequacy of their advertising. Additionally,
39 current law does not address non-licensee owner responsibilities.

1
2 The purpose of this change in statute is to expand owner
3 responsibility to include advertising & to make non-licensee owners
4 accountable for laws & regulations of the chapter. We get many
5 complaints every year related to advertising. The advertising doesn't
6 include who is responsible for the ads. Staff must spend a lengthy
7 amount of time researching who actually is responsible for the ad. In
8 order to expedite the resolution process of complaints, we would like
9 someone to be responsible for the advertising, so a consumer would
10 know whom to contact, & resolution of complaints would be easier if
11 the person responsible for the ad was included.

12
13 Ms. Peffers asked if just wanted point of contact.

14
15 Ms. Crawford responded that in order to resolve issues we need a
16 point of contact.

17
18 Mr. Puleo said we want the businesses to take responsibility for
19 advertising (Walmart/Costco). We're not giving licensee authority to
20 violate the law; they're still responsible for abiding by law. When
21 larger companies do advertising on a national level, an individual
22 working for them doesn't have much control over that. Right now we
23 can't do much of anything. With this change we could say this
24 violates advertising. This would give us statutory authority.

25
26 Ms. Martin questioned terminology of "compliant vs adequate"
27 adequate might not be appropriate for advertising.

28
29 Ms. Crawford will take out "advertising" from the draft proposed
30 language, & will add "& compliance with existing advertising laws &
31 regulations" at the end of the sentence.

32
33 Ms. Peffers questioned adding to the last sentence after "extent as"
34 add "provided by law".

35
36 Mr. Manning made motion to accept with changes. Ms. Carrera
37 seconded the motion. Motion carried.

38
39 B. Sales Receipts (B & PC Section 3365)
40

1 Ms. Crawford introduced a possible statute change that would require
2 dispensers to give consumers receipts for all services performed.
3 Bureau & Complaint Resolution staff have found that complainants do
4 not have records/documentation of services provided. Therefore
5 without documentation to substantiate the allegations, the Bureau,
6 many times, is unable to resolve the complaint or to take
7 administrative action. Current law requires a licensee to deliver to the
8 purchaser, upon the consummation of a sale of a hearing aid, a
9 written receipt but does not require additional receipts or
10 documentation for adjustments, replacements, or repairs.

11
12 Mr. Puleo said if the licensee isn't keeping good records, it's the
13 consumer's word against the licensees.

14
15 Ms. Peffers said if the licensee is not keeping good records, then the
16 consumer would win by default.

17
18 Mr. Manning wanted to know what complaints were for? They should
19 have receipt, which lists the Song-Beverly.

20
21 Ms. Crawford said it gets complicated when tolling is involved. It's
22 hard to determine when that 30-days starts & stops without
23 documentation.

24
25 Ms. Peffers said she'd never heard of tolling, & thinks Song-Beverly is
26 rather vague. An explanation is needed of when exactly is the
27 completion of fitting? Wanted to know what the problems were, &
28 thinks that documentation would be a nightmare. She would like to
29 know what the complaints were about.

30
31 Mr. Manning says it would be hard pressed to imagine that tolling
32 means 28 days after purchase, customer has fitting, then another 30
33 days, comes in 28 days later, could go on for five years. Said
34 Attorney General said, "people need to be reasonable". He didn't
35 agree that tolling could continue for five years & that is unreasonable.
36 His interpretation was if a consumer comes in for adjustment that
37 didn't stop the clock. If it went to manufacturer, that stopped the
38 clock. Completion of fitting (start of 30 days) is first time they get
39 hearing aid. Consumer has 30 days from then. If doesn't fit, then
40 that's not "delivered".

1
2 Ms. Crawford stated that the tolling of Song-Beverly was addressed
3 at the last meeting, when we were proposing changes to the
4 consumer brochure. The Bureau agreed at the last meeting, to look
5 for any legal opinion on tolling & was unable to find anything that
6 addressed tolling. The Bureau would like to pursue other ways to
7 protect the consumer. One option would be to come up with a
8 definition of "completion of fitting".
9

10 Mr. Sager says that amount of documentation that is required is going
11 to be catastrophic for every visit, even if it's just to get wax out of the
12 hearing aid. This doesn't protect consumer; it will take dollars out of
13 the consumer's pocket.
14

15 Ms. Martin said she's never been offered a refund on anything after
16 20 years of wearing hearing aids, & has worked with many
17 dispensers/audiologists. She was offered to have it fixed. She's never
18 been charged for adjustments, & she wouldn't have wanted to keep
19 track of it. Be careful not to put too many burdens on audiologists or
20 dispensers. You don't create a new policy just because someone isn't
21 following old policy. She said it seems like you're punishing a larger
22 group that is following the proper policies. There is a difference
23 between protecting consumers & requiring business to keep records.
24

25 Mr. Puleo said the dilemma is that those dispensers that aren't
26 reputable, that are cheating consumers, & we don't necessarily have
27 all the tools to prove anything. If a consumer doesn't have any
28 documentation, it's hard to prove that the dispenser did or didn't do
29 what they were supposed to do.
30

31 Ms. Horning says doctors are responsible for adequate records, that
32 this is true in any profession.
33

34 A member of the public, Collette Noble, who has a cochlear implant &
35 hearing aid, stated lack of understanding and misunderstanding is
36 very common with group that need hearing aids. A simple way of
37 keeping records would be to have a card that can be stamped when
38 the consumer/client goes in for a visit.
39

1 Ms. Horning stated now you would be making a consumer/client
2 responsible for record keeping, & that has shifted the responsibility to
3 the client. Thinks it would be very difficult to discipline a dispenser if a
4 client doesn't have a receipt.

5
6 Mr. Ivory stated Song-Beverly is vague.

7
8 Mr. Puleo says a receipt is giving a tool to consumer/client.

9
10 Ms. Peffers said we are required to keep records. If the records are
11 there, it is going to show any visits. Agrees with Ms. Martin if this is
12 happening you're going to have more than one complaint. Huge
13 administration responsibilities, HIPAA, mountains of paper, all this will
14 create less time to see patients, & dispensers will have to raise cost
15 of hearing aids. Ms. Peffers says most of the consumers do
16 document their visits.

17
18 Ms. Carrera asked what type of complaints was coming in? Stated if
19 we just have one person's word against the other, we don't have
20 sufficient evidence to substantiate a violation.

21
22 Mr. Sager said 80-90% of services done on a daily basis are not
23 charged to the consumer.

24
25 Ms. Sendejas-Lopez asked on annual basis how many complaints
26 the Bureau received on this issue? 100?

27
28 Ms. Crawford didn't know the exact number but thinks that it is lower
29 than the number regarding advertising complaints. That could be due
30 to education regarding advertising issues, and so licensees are more
31 aware now. Consumer complaints are increasing & the majority of
32 complaints are related to refunds. We don't mean to penalize the
33 licensee, but this information would help substantiate the claims that
34 are coming in.

35
36 Ms. Sendejas-Lopez would like to know the number before she voted
37 on something like that. Are the complaints professional or
38 consumer?

39

1 Ms. Carrera says when unfamiliar & new to getting a hearing aid, &
2 unless you're consumer oriented you might not know what to ask or
3 to do.

4
5 Mr. Manning said tolling issue might help decide this whole thing.

6
7 Ms. Dobbs says we need to define completion of fitting, before we
8 can continue with this. Perhaps Yvonne can get more information at
9 next meeting, types of complaints, specific examples of situations
10 where we haven't been able to take action. Maybe some compromise
11 language can be developed.

12
13 Ms. Peffers wanted to know how many of those are repeat offenders.
14 Are there three same offenders doing same thing over & over or 15
15 doing it once each?

16
17 Mr. Ivory said that the owner of a franchise or business, are
18 responsible for what happens.

19
20 Mr. Sager said we should table this issue, to come back to next
21 meeting. We need subcommittee to come up with definition of
22 completion of fitting.

23
24 Mr. Puleo said need subcommittee with dispensers & consumers.

25
26 Mr. Manning says Attorney General's opinion might be very helpful.

27
28 Ms. Crawford & Ms. Dobbs said the opinion didn't address that issue.
29 Ms. Dobbs said it spoke about whether a dispenser could charge for
30 adjustment, obligation to provide refund for hearing aids, but didn't
31 talk about tolling. Did say if after 30 days, consumer is not happy,
32 dispenser will have to refund money.

33
34 Mr. Sager, Mr. Manning, & Ms. Martin will be on the subcommittee to
35 come up with a definition of completion of fitting.

36
37 Mr. Ivory would like HHP & CAA to also be involved with definition as
38 well.

39

1 Ms. Crawford was told HHP & CAA could attend, but the Bureau must
2 make a public notice.

3
4 C. Advertising (CCR Section 1399.127)

5
6 Ms. Crawford explained that, problems in advertising involving large
7 (national) companies, placing ads but no name of contact person was
8 listed in the ad. Often times, it is hard to contact anyone regarding the
9 ad if a complaint is submitted. National companies (Walmart/Costco)
10 have a variety of sites & locations & the Bureau doesn't know whom
11 to contact regarding advertising. It is difficult & time consuming to
12 connect with the person responsible for the advertisement when get
13 we get a complaint. If we got a complaint about Sears in Concord, our
14 records would pull up Randy, & he might not know anything about the
15 ad. Therefore, whom do we lodge the complaint against? Possibly
16 listing the name & phone number of a contact person responsible for
17 advertising might be helpful.

18
19 Ms. Peffers thought two separate phone numbers would be confusing
20 to the majority of seniors. Thinks that perhaps we need to license
21 facilities & locations, not just people. With previous issue that came
22 up, sounds like need to license facilities, and it would solve both
23 issues.

24
25 Member of the public (Collette) said the majority of people calling in
26 would have hearing loss & suggested a TDD or relay number be
27 listed in the advertisement.

28
29 Mr. Manning mentioned expense of advertising and would be
30 expensive to change things for disclaimer.

31
32 Mr. Manning suggested we do same with this issue & talk more later,
33 or have further discussion.

34
35 Mr. Sager thought everyone wanted to be involved in this.

36
37 Ms. Sendejas-Lopez suggested these are important issues, and
38 should be addressed separately. She didn't think one group with two
39 meetings to discuss issues regarding certification of locations,
40 definition of completion of fitting, & Song-Beverly should be done in

1 same day. Mr. Sager, Ms. Carrera, Ms. Martin, & Mr. Manning
2 volunteered to work on committees.

3
4 Mr. Manning made motion for two issues at one meeting & Ms.
5 Sendejas-Lopez seconded the motion.

6
7 Mr. Puelo said there is a lot to cover in one day.

8
9 Ms. Hunter said you could have meetings, hold more of discussion,
10 informal process. You don't need to use Robert's Rules of Order.

11
12 Mr. Ivory thinks the issues should be tackled separately. Let's get a
13 good definition.

14
15 Ms. Dobbs wondered if the budget would allow for two meetings?

16
17 Mr. Puleo said we want to be efficient about this. Do we want to
18 devote eight hours to this?

19
20 Mr. Sager said this is two separate meetings, amendment to motion.

21
22 Vote taken. Ms. Sendejas-Lopez opposed; stating she thinks with the
23 issues she's hearing it will require a lot more time. Motion carried.

24
25 Ms. Crawford asked if there were any questions about Frequently
26 Asked Questions related to advertising?

27
28 Mr. Sager asked about the term Audioprothologist. Mr. Manning &
29 Ms. Peffers explained the requirements, which includes, schooling,
30 time, qualifications, & explained what the title actually means. It's an
31 accredited program & credential, not a certification.

32
33 There was no opposition to the Frequently Asked Questions & Ms.
34 Crawford indicated they would be posted on website.

35
36 D. Notification of Closure of Business (B& PC Section 3362)

37
38 Ms. Crawford stated there has been a recent increase in consumers
39 contacting the Bureau regarding closure of hearing aid offices, & not
40 being directed to another office or provider for follow-up services.

1 Because we are not requiring them to notify us, we are unable to
2 contact them. A statute change would require licensees or business
3 owners to promptly notify the Bureau & consumers of closure &
4 provide contact information.

5
6 Mr. Puleo wanted to know how many complaints/inquiries we're
7 getting?

8
9 Ms. Crawford responded she didn't think the numbers were huge, but
10 it affects many, many people. Only sometimes can we find them &
11 work through the issues.

12
13 Ms. Peffers says that again licensing the location might solve this
14 problem.

15
16 Mr. Manning says many have been through this, but every time he's
17 seen this type situation happen the manufacturers & dispensers get
18 together & tried to solve problems. Suggested to table until the next
19 meeting.

20 21 E. Non-Licensee Owner Requirements (B& PC Section 3367)

22
23 The question was asked about how the Bureau could hold a non-
24 licensed manager responsible? Can you fine them? What can you
25 do? Also, who would transfer records, & custodian of records? It was
26 suggested that we look for examples in other professions, & address
27 at the next meeting.

28 29 Agenda Item V-Roll Newsletter Update

30
31 Ms. Crawford commented on cost of copying & mailing of a
32 newsletter, which would be about \$944 per mailing for all active
33 dispensers & trainees.

34
35 Ms. Hunter said that HHP pays \$700 for bulk mailing and \$1900-
36 \$2400 for glossy paper. She suggested that we consider mailing our
37 newsletter with another organization's newsletter to help lower our
38 cost.

Agenda Item VI-Consumer Outreach

Ms. Crawford reported on several outreach events, Continuing Education courses that have been attended by the Bureau & the Consumer Brochure.

There was discussion from Mr. Ivory regarding wording & terminology and the phrase "Have you been diagnosed with a hearing loss?" Also discussion ensued regarding "See a physician or audiologist to have your hearing tested". Consensus was to add hearing aid dispenser, after audiologist.

Mr. Manning made motion & Ms. Carrera seconded the motion. Motion carried

Agenda Item VII-Examination Update

Ms. Newcomer reported on the February 2, 2008, Practical Exam at Sacramento State, & of the 50 candidates 43 passed the test. She also mentioned that training had been held in April for nine new examiners in San Diego area. The August 2, 2008 exam in San Diego had to be cancelled, due to the Communication Clinic moving. The Bureau is looking into the possibility of a new location for upcoming Practical Exams.

She also reported that there was only one more workshop for the year (Written Exam Development Workshops). Office of Exam Resources will have one workshop September 18 & 19, 2008, for the Practical Exam. The purpose of the workshop is to present suggestions by the examiners that work the exams, regarding any problems that have been noticed with the exam this year.

Agenda Item VIII-Future Advisory Committee Meetings

August 28, 2008 & the new date in LA of November 18 & 19, 2008.

1 Agenda Item IX-Public Comment

2

3 None

4

5 Agenda Item X-Adjournment

6

7 The meeting adjourned at 2:05 p.m.

8